

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**RUSSELL GREGORY, III,
in his capacity as Guardian of
ASHLEY KEIKO GREGORY, a Minor
the surviving heir of
MARY L. FISHER, deceased,**

Plaintiff,

Case No. 10-2335

vs.

UNITED STATES OF AMERICA,

Defendant.

**MOTION TO DISMISS AGAINST THE UNITED STATES OF AMERICA
WITH PREJUDICE AND TO SUBSTITUTE IN ITS
STEAD THE METROPOLITAN LIFE INSURANCE COMPANY,
MEMORANDUM OF AUTHORITIES, AND
CERTIFICATE OF CONSULTATION**

Plaintiff being advised by the Assistant U. S. Attorney Gary Vanasek and by counsel for the Metropolitan Life Insurance Company (hereinafter "MetLife") that the proper named defendant in this action for breach of the life insurance policy for accidental death benefits is MetLife, hereby moves the Court for an Order Dismissing the United States of America with prejudice and substituting in its stead MetLife. Plaintiff relies upon F.R.C.P. Rule 21, which provides grounds for the relief sought herein.

Plaintiff has consulted with both opposing attorneys and understands that they consent to the relief sought herein. Further, Plaintiff has been advised that MetLife will enter its appearance without necessity of service of process. Upon entry of an order granting said relief, Plaintiff will file an Amended Complaint, amending his allegations to the extent necessary.

CERTIFICATE OF CONSULTATION

The undersigned certifies that she has consulted with Gary Vanasek, Assistant U. S. Attorney and with Patricia Head Moskal, Attorney for MetLife, and they will not oppose said motion.

Respectfully Submitted,

/s/ Kathleen L. Caldwell, #9916
2670 Union Avenue Ext., Suite 110
Memphis, TN 38112
Telephone: (901) 458-4035
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been electronically filed and electronically sent to the following:

**Gary Vanasek, Esq.
Assistant U. S. Attorney
167 N. Main, Suite 800
Memphis, TN 38103**

**Patricia Head Moskal, Esq.
1600 Division Street, Suite 700
Nashville, TN 37203**

This 20th day of August, 2010.

s/ Kathleen L. Caldwell
Certifying Attorney